

FILED

May 21, 2003

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**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE LICENSE OF

Administrative Action

SETH FIELDING, M.D.
License No: MA 62367

**FINAL ORDER
OF DISCIPLINE**

TO PRACTICE MEDICINE AND SURGERY :
IN THE STATE OF NEW JERSEY

This matter was opened to the New Jersey State Board of Medical Examiners upon receipt of information which the Board has reviewed and on which the following findings of fact and conclusions of law are made;

FINDINGS OF FACT

1. Respondent, Seth David Fielding, M.D., License No. 62367, is a physician licensed in the State of New Jersey. Respondent's New Jersey license is currently active.

2. On February 6, 2002, a Consent Agreement and Order was entered by the New York State Board for Professional Misconduct wherein Respondent agreed not to contest any of the charges brought against him. Specifically, Respondent was charged with committing

CERTIFIED TRUE COPY

professional misconduct by failing to adequately work up and treat Patients A through L. Respondent was also charged with committing professional misconduct by failing to maintain records for Patients A through L which accurately reflect his care and treatment of the patients.

3. As a result of the foregoing, Respondent was subject to a Censure and Reprimand.

CONCLUSIONS OF LAW

1. The above New York action provides grounds to take disciplinary action against Respondent's license to practice medicine and surgery in New Jersey pursuant to N.J.S.A. 45:1-21(e) in that Respondent's failure to contest the charge of professional misconduct is tantamount to an admission of conduct which would constitute professional misconduct in New Jersey and is violative of code N.J.A.C. 13:35-6.5.

DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline reprimanding Respondent's license to practice medicine and surgery in the State of New Jersey and requiring Respondent to successfully complete a Board approved course on medical record keeping was entered on July 26, 2002, and a copy served on Respondent. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless Respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting

forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting Respondent's request for consideration and reasons thereof.

Respondent responded by way of a note dated August 5, 2002 stating that he is required by the State of New York to complete a course in medical record keeping, and that he is registered for a 2 day, 15 hour course given by the PACE program of the University of California. Respondent requested that the Board determine if the PACE program would be sufficient to fulfill his record keeping course requirement in New Jersey. Respondent was contacted by the Board office and asked for further details regarding the PACE course. Respondent replied by letter dated September 17, 2002, wherein he explained the circumstances surrounding his disciplinary action in New York. He stated that in the case that precipitated the New York action, he was asked by a trainer in treatment center to see a wife and daughter who's father/husband had made "trouble for other doctors by obtaining records and other means". Respondent asserts that these two patients asked him not to maintain any records. He also stated that "working up patients and prescribing medications matter but there are serious limitations to this one-size-fits-all approach". Respondent maintains that as a board certified psychiatrist, there are many situations in which doing a work up and providing a diagnosis is not advisable because

it is **more** important to **help** patients feel **more** comfortable in coming to him again.

Respondent's submissions were **reviewed** by the **Board**, and the Board determined that further proceedings were not necessary and that no material discrepancies had been raised. The Board **determined** that Respondent's request to have the **PACE** program in **California** satisfy his **medical record keeping** course requirement in **New Jersey** be granted. The Board was **not** persuaded that the submitted materials merited further consideration, as Respondent **did not dispute** the Findings of **Fact or Conclusions of Law**.

ACCORDINGLY, IT IS on this 21st day of May, 2003,

ORDERED that:

1. Respondent is **hereby reprimanded** and shall be required to successfully complete a **medical record keeping** course **given by** the **PACE program** of the University of **California** or a **New Jersey Board approved course** on **medical record keeping**.

NEW JERSEY STATE BOARD OF
MEDICAL EXAMINERS

By: _____

William V. Harrer MD BLD
William V. Harrer, M.D., B.L.D.
Board President



New York State Board for Professional Medical Conduct
433 River Street, Suite 303 • Troy, New York 12180-2299 • (518) 402-0863

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Commissioner
NYS Department of Health

Dennis P. Whalen
Executive Deputy Commissioner
NYS Department of Health

Dennis J. Graziano, Director
Office of Professional Medical Conduct

William P. Dillon, M.D.
Chair

Denise M. Bolan, R.P.A.
Vice Chair

Ansel R. Marks, M.D., J.D.
Executive Secretary

March 20, 2002

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Seth David Fielding, M.D.
27 W. 72nd Street
New York, NY 10023

RE: License No. **104414**

Dear Dr. Fielding:

Enclosed please find Order #BPMC 02-85 of the New **York State** Board for Professional **Medical** Conduct. This Order and any penalty **provided** therein goes into effect March 20, 2002.

If the penalty **imposed by the** Order is a surrender, revocation or suspension of this license, you **are required to deliver to** the Board the license and registration **within five (5) days** of receipt of the Order to Board for Professional Medical Conduct, **New York State** Department of Health, Hedley Park Place, Suite 303, 433 River Street, Troy, **New York** 12180.

Sincerely,

Ansel R. Marks, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Fred Friedman, Esq.
Friedman and Mahdavian, P.C.
36 W. 44th Street
Suite 1205, New York NY

NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER
OF
SETH DAVID FIELDING, M.D.

CONSENT
AGREEMENT
AND
ORDER

BPMC No. 02-85

SETH DAVID FIELDING, M.D., representing all statements herein made to be true, deposes and says:

That on or about **August 11, 1969**, I was licensed to practice as a physician in the State of New York, having **been issued** License No. 104414 by the New York State Education Department.

My current **address is** 27 West 72nd Street, New York, **N.Y.** 10023, and I will advise the Director of the Office of Professional Medical Conduct of any change of **my address**.

I understand that the New York State Board for Professional Medical **Conduct** has charged me with 2 specifications of professional misconduct.

A copy of the Statement of Charges **is** annexed hereto, made a part hereof, and **marked as** Exhibit "A".

I agree not to contest any of the charges, in full satisfaction of the charges against me. I hereby **agree** to the following penalty:

I **shall** be subject to a Censure and Reprimand and shall be subject **to** the Conditions, **set** forth in Exhibit "B" **and** imposed pursuant to §230 of the Public Health Law within the meaning of §6530(29) of the Education Law, which **conditions** shall be effective for a period of three **years** **subject** to the tolling **provisions set** forth in Exhibit "B".

t further agree that the Consent Order for which I hereby apply shall **impose** the following conditions:

That, except **during periods** of actual **suspension**, Respondent shall maintain active registration of Respondent's **license** with the **New** York State Education Department Division of Professional Licensing Services, and **pay** all registration fees. This condition **shall be in** effect **beginning** thirty **days after** the effective date of the Consent Order and **will** continue while the licensee **possesses** his/her license; and

That Respondent shall **fully** cooperate **in every** respect with the Office of Professional **Medical** Conduct (OPMC) in its administration **and** enforcement of this Order **and** in its **investigation** of all matters **regarding Respondent**.

Respondent **shall respond** in a timely manner to each and **every** request by OPMC **to provide** written periodic verification of Respondent's compliance with the terms of this Order.

Respondent **shall** meet with a person designated by the Director of OPMC **as directed**. **Respondent shall respond promptly and provide** any **and** all documents and information within **Respondent's** control **upon** the direction of OPMC. This condition **shall be in** effect beginning **upon** the effective date of the **Consent** Order and **will** continue while the licensee **possesses** his/her license.

I hereby **stipulate** that any failure by **me** to comply with **such** conditions shall constitute misconduct **as defined** by **New York** State Education Law §6530(29).

I agree that in the event I am charged with **professional** misconduct in the future, this agreement **and order shall be admitted** into evidence in that proceeding.

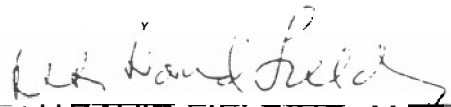
I hereby make **this** Application to **the** State Board for Professional Medical Conduct (the Board) **and** request that it be granted.

I understand that, in the event that **this** Application *is* not granted by the Board, nothing contained herein **shall be** binding upon me or construed *to be* an admission of any act of misconduct alleged or charged **against** me,, such Application shall not **be used** against me in any **way and** shall be **kept** in strict confidence **during** the pendency of the professional misconduct disciplinary proceeding; and such denial by the Board **shall be** made without prejudice to the continuance of **any disciplinary** proceeding and the final determination by the Board **pursuant** to the **provisions** of the Public Health Law.

I agree that, ~~in~~ the **event** the Board grants my Application, as set forth herein, an order of **the** Chairperson of the Board shall **be issued** in accordance with same. I agree that such **order** shall be **effective** upon issuance by the Board which may **be** accomplished by mailing, by first **class** mail, a copy of the Consent Order to **me** at the address **set** forth in **this** agreement, or to my attorney, or upon **transmission via** facsimile to me or my attorney, whichever **is** earliest.

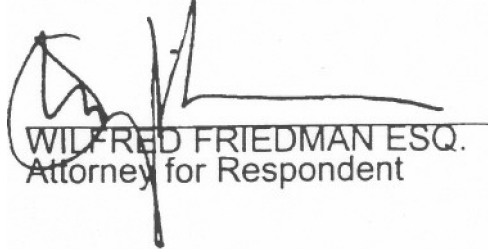
I **am** making this Application of **my** own free **will** and accord and *not* under duress, **compulsion** or restraint of any **kind** or manner. In consideration of the value to me of the acceptance **by** the Board of **this** Application, allowing me to resolve this matter without the various **risks and burdens** of a hearing on the **merits**, I knowingly **waive** any right I may have to contest the Consent Order for which I **hereby apply**, whether **administratively** or judicially, and **ask** that the **Application be** granted.

DATED 2.16.02

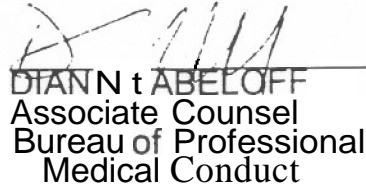

SETH DAVID FIELDING, M.D.
RESPONDENT

The undersigned agree to the attached application of the Respondent and to the proposed penalty based on the terms and conditions thereof.

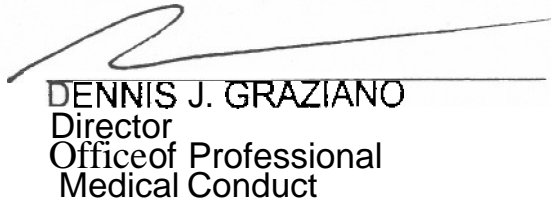
DATE: 3/6/02


WILFRED FRIEDMAN ESQ.
Attorney for Respondent

DATE: 3/7/02


DIANN t ABELOFF
Associate Counsel
Bureau of Professional
Medical Conduct

DATE: 3/15/02


DENNIS J. GRAZIANO
Director
Office of Professional
Medical Conduct

IN THE MATTER
OF
SETH DAVID FIELDING, M.D.

STATEMENT
OF
CHARGES

SETH DAVID FIELDING, M.D., the Respondent, **was** authorized to practice medicine in New York *State* on or about **August 11, 1969**, by the issuance of license number 104414 **by** the **New** York State Education Department.

FACTUAL ALLEGATIONS

- A. From in or about 1991, through in or about 1998, Respondent **treated** Patients **A** through **K** at **his** office, **42 West 72nd Street, N.Y., N.Y.** Respondent's conduct deviated from accepted medical **standards**, in that:
1. **Respondent failed to** adequately work up and treat Patients **A** through **L**.
 2. Respondent failed to maintain record for Patient **A** through **L** which accurately reflected **his** care **and** treatment of the patients.

NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER

OF

CONSENT

ORDER

Upon the proposed agreement of **Seth David Fielding, M.D.** (Respondent) for Consent **Order**, which application is **made** a part **hereof**, it is **agreed** to and

ORDERED, that the application **and the** provisions **thereof are** hereby **adopted and** so **ORDERED**, and it is further

ORDERED, that this **order shall be effective** upon **issuance by the** Board, which may be accomplished **by** mailing, **by first class mail**, a copy of **the** Consent Order to Respondent **at the address** set forth in this agreement or to Respondent's attorney **by** certified mail, or upon **transmission** via **facsimile** to Respondent or **Respondent's attorney**, whichever is **earliest**.

SO ORDERED.

DATED: 3-19-02



WILLIAM P. DILLON, M.D.

Chair

**State Board for Professional
Medical Conduct**

EXHIBIT "5"

Conditions

1. Respondent **shall** conduct **himself in all ways** in a manner befitting his professional status, **and** shall conform Fully to the moral and professional standards of conduct and obligations imposed by law and by his profession. Respondent acknowledges that if he commits professional misconduct as enumerated in New York State Education Law §6530 or §6531, those acts **shall be** deemed to be a violation of this Condition and that **an** action may be taken against Respondent's license pursuant to New York State Public Health Law §230(10).
2. Respondent **shall** submit written notification to the New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299; said notice is to **include** a full description of any employment and practice, professional and residential addresses and telephone, numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.
3. Respondent **shall** fully cooperate with and respond in a timely manner to **requests** from OPMC to provide written **periodic** verification of Respondent's compliance with the terms of this Order. Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.
4. Any civil **penalty** not paid by the date prescribed herein shall be subject to **all** provisions of law relating to **debt** collection by New York State. This **includes but** is not limited to the imposition of interest, late payment charges and collection fees; **referral** to the New York State Department of **Taxation and Finance** for collection; and non-renewal of **permits** or licenses [Tax Law section 171(27)]; State Finance Law section 18; CPLR section 5001; Executive **Law** section 32].
5. The **three** year period of **Conditions** set forth in this Exhibit **shall be** tolled during periods in which **Respondent** is not engaged in the active practice of medicine in New York State. Respondent shall notify the Director of OPMC in writing, if Respondent is not currently **en** a ed in or **intends** to leave the **active** practice of medicine in New York &?e **for** a period of thirty (30) consecutive days or more. Respondent shall then notify the Director again prior to any change in that **status**. The period shall resume and **any** conditions which were not fulfilled shall be fulfilled upon Respondent's return to practice in New York State.
6. Respondent's professional performance may **be** reviewed by the Director of OPMC. This review may include, but **shall** not be limited to, a review of office records, patient records and/or hospital charts, interviews with or **periodic** visits with Respondent and his/her staff at practice locations or OPMC offices.
7. Respondent shall maintain legible **and** complete medical records which accurately reflect the evaluation **and** treatment of patients. The medical